

October 14, 1998

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U.S. Environmental Protection Agency  
401 M Street, S.W.  
Washington, D.C. 20460

Mr. Douglas Wheeler  
Secretary  
Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

Dear Gentlemen:

Thank you for inviting us to attend the recent CALFED Policy Group meeting in Sacramento. We write to provide you with some answers to questions raised at that meeting regarding the need for a new institution of some kind to implement CALFED's Ecosystem Restoration Program (ERP).

As you are aware, over the last year or more, our respective caucuses, as well as other stakeholders participating in CALFED's Assurances Work Group, have concluded that some type of new entity may be the most efficient way of implementing the ERP and the Strategic Plan. This conclusion is based on several considerations.

First, to be successful, this effort should be fully merged with other scattered and parallel efforts to restore Central Valley species and habitat types. Merely "coordinating" among agencies with different mandates and different perspectives is less efficient and therefore less likely to achieve lasting long-term results. This is not to say that we have any interest in eliminating or lessening any currently existing authorities or mandates. Rather, by bringing together all of the relevant agencies working on a single integrated program, the ecosystem is likely to achieve greater benefits.

Second, the kinds of authorities necessary to implement the program are now scattered among various state, federal, local and even non-profit entities. Rather than piecemealing implementation of the program among these entities, we are recommending that we design an entity to suit the task of implementing this program with the appropriate prerogatives and powers. None of the natural resource agencies, to whom the implementation task would largely fall in the absence of something new, are currently structured so as to undertake long-term implementation for a program of this magnitude.

Third, the program will be best served by a structure that includes both federal and state governments. Delegating responsibility for the ERP implementation to one or the other will result in practical as well as political problems.

Fourth, the current structure is untenable. The ERP and Strategic Plan are unlikely to be successful without a permanent professional staff dedicated to program implementation over the long-term. CALFED as it is currently structured has no legal existence. This severely limits its capacity and flexibility to conduct even the most basic hiring and contracting functions.

The difficulties experienced by CALFED staff in administering the Category 3 funds provided by Proposition 204 are illustrative of this problem. Since these funds could not be appropriated to the CALFED Bay-Delta Program directly, they were directed to the Resources Agency. Since Resources did not have sufficient staff to handle the program, the funds were transferred to a third agency, a contract had to be negotiated effectuating the transfer and a fourth entity was brought in to administer a portion of the funds. It took months to resolve these issues and awards that were announced in December of 1997 did not begin going to contract until the summer of 1998. A number of approved projects are still awaiting contracts. These problems have raised serious questions about the program with congressional appropriators and may jeopardize future funding.

Moreover, projects implemented with funds from multiple sources are subject to multiple, and differing, requirements. Thus, under the current structure, a single ecosystem project may be implemented through a myriad of state contracts, federal cooperative agreements from several agencies, EPA grants, NFWF agreements. Each of these vehicles has its own particular requirements and can result in different, or even conflicting, treatment of project proponents. (For example, federal and state standard insurance and indemnification requirements differ.) There are other serious problems with the current structure that preclude it from providing any assurance of an effective implementation vehicle for the ecosystem program.

As a final note, we would like to address directly a concern raised at the CALFED meeting that perhaps the stakeholders are pressing for a new entity as a way of increasing their control over the ERP and limiting agency involvement. As we stated, this is incorrect. Under the current structure, the stakeholders already have substantial input to CALFED's pre-implementation ecosystem planning and spending via the Ecosystem Roundtable. Our proposal for a new entity does not depend upon an increased role for stakeholders beyond the current level, although the form of that involvement could be somewhat different.

Please do not hesitate to call us if you have any questions.

Sincerely,



Cynthia L. Koehler  
Save San Francisco Bay Association

Clifford W. Schulz  
The Ag/Urban Group